

46 Am. Jur. 2d Judges § 200

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Judges

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IX. Disqualification to Act in Particular Case

D. Waiver and Estoppel

§ 200. Knowledge of basis for disqualification of judge

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

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A party has not waived the right to disqualify a judge by not asserting the issue within the prescribed time limit, if the party did not know of the grounds for making the motion.¹

Observation:

A party is said to have waived the right to obtain a judge's disqualification when the alleged basis for the disqualification has been known to the party for some time, but the objection is raised well after the judge has participated in the proceedings.² Thus, counsel waived the right to object to a trial court judge presiding over a civil proceeding, where counsel's allegations of bias stemming from the judge's personal and professional relationship with the opposing counsel were based on events that took place six to 16 years before the affidavit of disqualification was filed, and counsel did not file the affidavit until one case had been pending for approximately nine years and the other had been pending for six months.³

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Footnotes

- 1 [Sincavage v. Superior Court](#), 42 Cal. App. 4th 224, 49 Cal. Rptr. 2d 615 (1st Dist. 1996).
As to requirement of knowledge of the existence of a right before one can waive it, generally, see [Am. Jur.](#)
2d, Estoppel and Waiver § 188.
- 2 [State v. Buttercase](#), 296 Neb. 304, 893 N.W.2d 430 (2017).
- 3 [In re Disqualification of Park](#), 142 Ohio St. 3d 65, 2014-Ohio-5872, 28 N.E.3d 56 (2014).

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